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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------------|------------------------|
| 10/772,876 | 02/05/2004 | David Gravel | FMC 1582 PUS (81044332 20 | 5532 |
| 28395 7590 09/14/2007 BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238 | | | EXAMINER LE, JOHN H | |
| | | | ART UNIT 2863 | PAPER NUMBER |
| | | | MAIL DATE 09/14/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/772,876 | Applicant(s) GRAVEL, DAVID | |
| | Examiner John H. Le | Art Unit 2863 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 14-22 and 25-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I (Claims 1-13, 23, and 24) in the reply filed on 08/21/2007 is acknowledged.

Claims 14-22 and 25-28 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 08/21/2007.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-13, 23, and 24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are directed to a judicial exception; as such, pursuant to the Interim Guidelines on Patent Eligible Subject Matter (MPEP 2106), the claims must have either physical transformation and/or a useful, concrete and tangible result. The claims fail to include transformation from one physical state to another. Although, the claims appear useful and concrete, there does not appear to be tangible result claimed.

Regarding claim 1, merely forming dot product DP as provided in equation $DP = R * S$; wherein the dot product provides a number related to the probability that the test part that may have an unknown defect has the known defect in the second reference

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part with the proviso would not appear to be sufficient to constitute a tangible result, since the dot product DP disclosed as a number used in calculating the probability, it constitutes a purely mathematical construct. It's clearly non-statutory and probably has other problems as well. Therefore, claim(s) 1-13 appear(s) non-statutory.

Regarding claim 23, merely forming dot product DP as provided in equation $DP = R * I$; wherein the dot product provides a number related to the probability that the test part that may have an unknown defect has the known defect in the second reference part would not appear to be sufficient to constitute a tangible result, since the dot product DP disclosed as a number used in calculating the probability, it constitutes a purely mathematical construct. It's clearly non-statutory and probably has other problems as well. Therefore, claim(s) 23 appear(s) non-statutory.

Regarding claim 24, merely forming dot product DP as provided in equation $DP = R * F$; wherein the dot product provides a number related to the probability that the test part that may have an unknown defect has the known defect in the second reference part would not appear to be sufficient to constitute a tangible result, since the dot product DP disclosed as a number used in calculating the probability, it constitutes a purely mathematical construct. It's clearly non-statutory and probably has other problems as well. Therefore, claim(s) 24 appear(s) non-statutory.

Other Prior Art

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Dapiran et al. (USP 4,196,620) disclose apparatus for the dynamic testing of a pair of meshing gear wheels, one driving and one driven, of the type comprising first and second rotary support means one of which carries the driving wheel and the other of which carries the driven wheel, the two wheels meshing with one another, motor means for driving one of the wheels to rotate, braking means for restraining the rotation of the other wheel, accelerometer means being associated with the first and/or the second support means to detect the vibrations of the relevant wheel perpendicularly to its axis of rotation and for providing electrical signals representative thereof, means for processing the electrical signals produced by the accelerometer means, and means for the visual display and/or recording of the processed electrical signals.

Wisniewski (US 20040254752 A1) disclose a method for evaluating defects in a product that defines an array of components. This broader method includes inputting risk factor data into a memory such as a computer readable memory, and inspecting at least one region of the product in accordance with the risk factor.

Ozaki et al. (USP 7187423) disclose a display and a method for repairing defects of the same in which defects such as inter-layer short-circuits and short-circuits in a single that have occurred at steps for manufacturing the display can be easily repaired to provide a good product with a high probability.

Ono et al. (USP 6,775,817) disclose a method and system are provided for analyzing defects having the potential to become electrical failures, during the inspection of particles and/or pattern defects of a wafer used in the manufacture of electronic devices such as semiconductor integrated circuits. Defect map data is

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processed along with failure probability data. Next, defect-dependent failure probability calculations are made to obtain the failure probability of each defect in the defect map data. That data is then used to prepare failure-probability-added defect map data.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John H. Le whose telephone number is 571 272 2275. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on 571 272 2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John H. Le

Patent Examiner-Group 2863

September 10, 2007